THE SPOKESMAN-REVIEW
August 26, 2015

Shawn Vestal: Lawmakers have authority to fund schools, not necessarily ability

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The Washington Supreme Court has diagnosed the illness correctly. But the justices must wish they could prescribe a different treatment.

The court has held the Legislature in contempt of court for its failure to produce a stable, long-term funding plan for the state's schools. The justices ruled in 2012 that lawmakers were violating their constitutional obligation to amply fund the schools – violating the rights of the state's children, in essence.

Though the McCleary ruling called upon the Legislature to do a better job on the "ample" part of funding schools, it was not solely, or even primarily, about increased funding. The justices called on lawmakers to develop a more consistent and stable manner of raising money and paying for the basic education of kids, and to stop shifting the cost onto districts and property tax levies.

It's no stretch to see the Legislature's performance on this question as contemptuous of the court's order, and there's no doubt that it's the Legislature's job to address it. Still, asking that legislative body to fix the problem is like smoking cigarettes to cure cancer – it's mixing up cause with cure.

Recall that it took the Legislature three overtime sessions this year to pass a budget. Consider that a lot of lawmakers simply do not want to fund schools amply – they want to argue that funding is over-ample already – and those folk work hard to carry out what they see as their true paramount duty: blocking taxation. Revisit the 40-year history of court orders and legislative backsliding, of education reform committees and budgetary roller coasters.

And then try your best to believe that our senators and representatives are going to come together to develop a plan to make sure our schools are well-funded in a stable and reliable manner, and not subject to political gusts and volatile funding every two years.

This is not a three-year-old problem. In 1977, the state Supreme Court upheld a ruling by Thurston County Superior Court Judge Robert Doran that state funding was not "fully sufficient" to pay for basic education. The court ruled that for the state to meet its constitutional obligation, it must provide "regular and dependable" revenue for schools, and that local property tax levies were neither regular nor dependable.

In the early 1970s, school districts often relied on levies for a third or more of their funding. In the school year following the Doran ruling, that dropped to 20 percent statewide. The

Legislature then increased school funding further and set a target that local taxes would cover no more than 10 percent of basic educational costs – the “levy lid.” (A higher percentage would be acceptable for “enhancements” to basic education.)

The following year, local tax reliance dropped to 11 percent, according to statewide figures. Then it dipped to 7.9 percent. And then, in the 1981-82 school year, four years after the Doran ruling, reliance on local taxes began creeping up again – a few tenths of a percentage point here, a few there.

Meanwhile, more court decisions expanded what was considered “basic” in basic education – special education, transportation, bilingual education and other areas. The cost of education was going up, and the Legislature wasn’t keeping pace, except by lifting the levy lid. In 1979, the Legislature rejiggered the way budgets were calculated, so the 10 percent lid was larger in real terms. In 1981, a grandfather provision was modified so districts had more time to hit the 10 percent figure, and then it was modified again in 1985. Soon, in addition to continued budgetary tinkering, lawmakers simply began raising the levy lid itself.

The Supreme Court justices addressed this in their McCleary ruling: “As of 2010, all school districts have a levy lid of 28 percent, and 90 grandfathered districts maintain levy lids as high as 38 percent. … The increase in school districts’ levy capacity over the years reflects the growing need to fill the gap between state allocations and the actual cost of providing the program of basic education. Reliance on levy funding to finance basic education was unconstitutional 30 years ago in Seattle School District, and it is unconstitutional now.”

By the 2011-12 school year, we were back where we started, plugging a fifth of the state’s educational budget gap with local property taxes. School spending had increased dramatically in those years – per-student funding from all sources rose from $5,845 in 1994-95 to $9,739 in 2011-12. A lot of critics say this is enough, if not too much. But those figures were driven upward by an expanding roster of demands placed upon schools, by efforts to pay teachers better and shrink class sizes, and by emergence of a continually changing system of testing and accountability.

A lot of people are trying to simplify the current debate into a question of more or less money, and that’s part of it. But the current sticking point is the failure of the Legislature to address this key demand: providing equal education to every student across the state, no matter how property-rich their neighborhood is or how much the voters listen to Duane Alton when it comes time to cast a ballot.

Lawmakers did a lot of patting themselves on the back after this year’s session, arguing that the increased funding of $1.3 billion made it a landmark year. They seemed to have forgotten the context of the previous biennial budget, with education cuts the court called “massive.” And the new funding, once it’s spread out, put the tiniest dent in the use of levy money. In Spokane Public Schools, the percentage of the budget that comes from local taxes dropped from 18.5 percent to 17.5 percent with the new funding.

This is the constitutional crisis – a 40-year failure by the various incarnations of the Legislature to do what the highest court in the state says it must do. And now the highest court in the state is saying it again.

Only lawmakers have the authority. Do they have the ability?

Editor's Note: This story has been altered to remove wording regarding the supermajority formerly required in school funding. That requirement no longer exists.

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